STATE OF MICHIGAN

COURT OF APPEALS

DEONNA HERWIG-TUCKER,

Plaintiff-Appellant,

v

DETROIT ENTERTAINMENT, LLC, d/b/a MOTOR CITY CASINO,

Defendant-Appellee.

UNPUBLISHED
March 18, 2004

No. 244834
Wayne Circuit Court
LC No. 01-129768-NO

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition in this premises liability case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was injured when she slipped in a puddle of liquid in a restroom on defendant's premises. She filed suit alleging that defendant negligently failed to maintain its premises in a reasonably safe condition and to warn of the unsafe condition. The trial court granted defendant's motion for summary disposition, finding that no evidence created an issue of fact as to whether defendant had actual or constructive notice of the existence of the condition.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

To establish a prima facie case of negligence, a plaintiff must prove that: (1) the defendant owed a duty to the plaintiff; (2) the defendant breached the duty; (3) the defendant's breach of duty proximately caused the plaintiff's injuries; and (4) the plaintiff suffered damages. *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000). A prima facie case of negligence may be based on legitimate inferences, provided that sufficient evidence is produced to take the inferences "out of the realm of conjecture." *Berryman v K-Mart Corp*, 193 Mich App 88, 92; 483 NW2d 642 (1992), quoting *Ritter v Meijer, Inc*, 128 Mich App 783, 786; 341 NW2d 220 (1983).

An invitor must provide reasonably safe premises for invitees. In a premises liability action, the plaintiff must show either that the defendant caused the unsafe condition, or that the defendant knew or should have known of the unsafe condition. Such knowledge may be inferred

from evidence that the condition existed for a sufficient length of time for the invitor to have discovered it. *Clark v K-Mart Corp*, 465 Mich 416, 419; 634 NW2d 347 (2001).

An invitor's general knowledge that a condition can materialize is not sufficient to create constructive knowledge of the existence of a particular condition at a specific time. *Winfrey v S S Kresge Co*, 6 Mich App 504, 509-510; 149 NW2d 470 (1967). Plaintiff presented no evidence from which a reasonable jury could infer without engaging in impermissible speculation that the puddle had been on the floor for a sufficiently lengthy period of time that, but for the lack of a more aggressive inspection schedule, it would have been discovered and removed prior to her use of the restroom. The possibility that a breach of duty by defendant caused plaintiff to sustain injuries is not sufficient to establish causation. *Berryman*, *supra*. Summary disposition was proper.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette